



FEDERAL TRADE COMMISSION

[File No. 222 3019]

The Bountiful Company; Analysis of Proposed Consent Order to Aid Public

Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement; request for comment.

SUMMARY: The consent agreement in this matter settles alleged violations of Federal law prohibiting unfair or deceptive acts or practices. The attached Analysis of Proposed Consent Order to Aid Public Comment describes both the allegations in the complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Interested parties may file comments online or on paper by following the instructions in the Request for Comment part of the **SUPPLEMENTARY**

INFORMATION section below. Please write “The Bountiful Company; File No. 222 3019” on your comment and file your comment online at <https://www.regulations.gov> by following the instructions on the web-based form. If you prefer to file your comment on paper, please mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC-5610 (Annex P), Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Michael Ostheimer (202-326-2699), Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule § 2.34, 16 CFR § 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of 30 days. The following Analysis to Aid Public Comment describes the terms of the consent agreement and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained at <https://www.ftc.gov/news-events/commission-actions>.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the <https://www.regulations.gov> website.

Because of heightened security screening, postal mail addressed to the Commission will be subject to delay. We strongly encourage you to submit your comments online through the <https://www.regulations.gov> website.

If you prefer to file your comment on paper, write “The Bountiful Company; File No. 222 3019” on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC-5610 (Annex P), Washington, DC 20580.

Because your comment will be placed on the publicly accessible website at <https://www.regulations.gov>, you are solely responsible for making sure your comment does not include any sensitive or confidential information. In particular, your comment should not include sensitive personal information, such as your or anyone else’s Social Security number; date of birth; driver’s license number or other state identification number, or foreign country equivalent; passport number; financial account number; or

credit or debit card number. You are also solely responsible for making sure your comment does not include sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any “trade secret or any commercial or financial information which . . . is privileged or confidential”—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule § 4.10(a)(2), 16 CFR 4.10(a)(2)—including competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled “Confidential,” and must comply with FTC Rule § 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule § 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the <https://www.regulations.gov> website—as legally required by FTC Rule § 4.9(b)—we cannot redact or remove your comment from that website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule § 4.9(c), and the General Counsel grants that request.

Visit the FTC Website at <http://www.ftc.gov> to read this document and the news release describing the proposed settlement. The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments it receives on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. For information on the Commission’s

privacy policy, including routine uses permitted by the Privacy Act, see

<https://www.ftc.gov/site-information/privacy-policy>.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission (“FTC” or “Commission”) has accepted, subject to final approval, an agreement containing a consent order from The Bountiful Company (“Bountiful”). The proposed consent order (“proposed order”) has been placed on the public record for thirty days for receipt of comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement’s proposed order.

This matter involves Bountiful’s alleged manipulation of the Amazon.com product pages for a number of its Nature’s Bounty and Sundown brand dietary supplement products. Bountiful is a vendor to Amazon, Inc., which allows its vendors to create or submit requests to create “variation” relationships between products sold on Amazon.com that are substantially similar, like a shirt which is available in different sizes and colors. The product detail page of products that are in a variation relationship displays the total number of ratings and reviews, the average star rating, and the individual reviews for all the products in the variation relationship. All the products in a variation relationship also share any “#1 Best Seller” or “Amazon’s Choice” badges.

According to the Commission’s proposed complaint, during 2020 and 2021, Bountiful submitted requests to Amazon to create numerous variation relationships involving products with different formulations. The proposed complaint quotes a Bountiful employee explaining that they did this with new products to “try and ramp them faster as they were NOT selling and we wanted to give them a little boost in

R[atings]&R[reviews] to gain visibility and allow them to also borrow the ‘amazon choice’ badge and best seller badge which worked.”

The proposed complaint alleges that Bountiful violated Sections 5(a) and 12 of the FTC Act by misrepresenting that: a) the apparent reviewers of certain of its products sold on Amazon.com had used and endorsed the products; b) certain of its products sold on Amazon.com had received the numbers of customer ratings appearing on their Amazon.com product pages; c) certain of its products sold on Amazon.com had obtained the average star ratings displayed on their Amazon.com product pages; d) certain of its products sold on Amazon.com were number one best sellers; and e) certain of its products sold on Amazon.com had earned an Amazon’s Choice badge.

The proposed order contains provisions designed to prevent Bountiful from engaging in similar acts and practices in the future and to provide monetary relief.

Provision I prohibits Bountiful from making any misrepresentation about or through the ratings, reviews, badges, or endorsements of any of its products or services, including false claims that someone reviewed or used the product or service or about the number of ratings or reviews the product or service has, its average star rating, its having earned an Amazon’s Choice badge, or its being a best seller. Provision II prohibits Bountiful from distorting or otherwise misrepresenting what consumers think of its products or services by creating relationships between different products sold online or by procuring, suppressing, boosting, organizing, selectively publishing, up-voting, down-voting, or editing consumer reviews or ratings of its products or services.

Provision III requires Bountiful to pay the Commission \$600,000 within eight days of the effective date of the order. Provision IV sets out additional requirements related to the monetary relief.

Provisions V through VIII of the proposed order are reporting and compliance provisions. Provision V requires acknowledgement of the order and dissemination of the

order now and in the future to persons with responsibilities relating to the subject matter of the order. Provision VI ensures notification to the FTC of changes in corporate status and mandates that the company submit an initial compliance report to the FTC. Provision VII requires the company to create and retain certain documents relating to its compliance with the order. Provision VIII mandates that the company make available to the FTC information or subsequent compliance reports, as requested. Provision IX states that the proposed order will remain in effect for 20 years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the complaint or proposed order, or to modify in any way the proposed order's terms.

By direction of the Commission.

April J. Tabor,

Secretary.

[FR Doc. 2023-03560 Filed: 2/21/2023 8:45 am; Publication Date: 2/22/2023]